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**RiverStone Partners, LLC
E Rate Consulting**

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October 12, 2008

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
9300 East Hampton Drive
Capital Heights, MD 20743

Subject: Appeal of USAC Funding Decision – Docket 02-6

Request for Review

Applicant: Yeshivath Viznitz D'Khal Torah Chaim
BEN 152310
Application 545708
FRN 1507256
SPIN: 14300067 – Verizon Wireless

The above application and associated FRN was denied by USAC for reasons relating to lack of documentation and cost effectiveness. A copy of the denial letter is attached.

The school believes these are not the relevant issues. The school believes the relevant issues are related to USAC following established procedures used with other applications but not followed with this FRN.

Had the school been offered the opportunity to remove the phone number in question from the FRN they would have done so. On appeal the school requested the phone number be removed and the FRN be reduced, but the request was denied.

The school agrees with USAC that the individual bill for a single phone line of \$331.00 per month is excessive. However, the school believes USAC did not follow the procedures used in the review of applications from other schools in the review of application 545708 specifically FRN 1507256. Additionally the school believes USAC made errors in the following areas.

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List ABCDE

1 – The entire FRN was denied for \$2,036.76 per month. The phone bill in question is less than 30% of the entire FRN. What was the rationale used to deny the entire FRN?

2 - In the appeal to USAC the school clearly offered to remove the questionable phone bill from the FRN. No reference was made to this request and the appeal was denied.

3 – During the PIA review the option to remove the questionable phone bill was discussed with the PIA reviewer but the school was not afforded the option prior to denial. When the PIA reviewer was asked if the school could remove another phone number from the application they were told "No". Please see the attached.

4 – The school never received a notification from PIA that the FRN was to be denied. This was offered for FRN 1507255. Please see attached. Had the notification been made the school would have requested that the FRN be reduced by the amount of the phone bill for # 914 523 7352.

The school realizes that the phone bill in question is excessive and if given any opportunity would have voluntarily requested removal of the phone bill from the application as they did with FRN 1507255. It is clear that somewhere in the review process of this FRN communications broke down. The school would like to reopen those communications and respectfully requests the FCC consider the following:

1 – The total funding request for FRN 1507256 is for \$2,036.76. The dollar amount associated with phone number 914 523 7352 is less than 30% of the entire phone bill. The entire FRN should not have been denied.

2 - USAC News Brief dated June 1, 2007 on page 3 states: PIA will offer you the opportunity to agree to remove items deemed ineligible from your application. The school was not offered this opportunity.

3 – USAC News Brief dated April 20, 2007 on page 3 states: The 30% Rule states that if 30% or more of an applicant's funding request is for ineligible products and/or services, USAC will deny the FRN. As noted above this phone number is less than 30% of the entire FRN.

4 – USAC News Brief dated March 16, 2007 discusses the varying option available to the applicant regarding eligibility of products. On page 4 of the News Brief USAC discusses the actions it will take if it deems the requested items to be ineligible. None of these actions result in the denying of the entire Funding Request nor was the school part of any discussions regarding cost effectiveness.

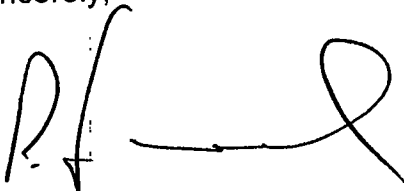
5 – USAC News Brief dated March 21, 2008 more clearly documents the process used in 2007 for “questionable” products or services. The school was not afforded any of these options.

Again, the school does not deny that the request for the phone number in question was high. The school has since reviewed and changed all their calling plans with Verizon Wireless to be more cost effective. However, the school also believes it has not been afforded the same options as made available to other schools in the review process.

The school respectfully requests the application be returned to PIA for further review and the school be allowed to remove cell number 914 523 7352 from the application.

If you require any additional information please let me know.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. Sniecinski', with a large loop at the end.

Robert Sniecinski
RiverStone Partners, LLC
106 Lilac Drive
Annandale, NJ 08801
908 735 6986
888 891 1567
E mail: erate@earthlink.net



Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal – Funding Year 2007-2008

August 06, 2008

Robert Sniecinski
RiverStone Partners, LLC
106 Lilac Drive
Annandale, NJ 08801

Re: Applicant Name: YESHIVATH VIZNITZ D'KHAL
TORATH CHAIM
Billed Entity Number: 152310
Form 471 Application Number: 545708
Funding Request Number(s): 1507255, 1507256
Your Correspondence Dated: March 31, 2008

After thorough review and investigation of all relevant facts, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) has made its decision in regard to your appeal of USAC's Funding Year 2007 Funding Commitment Decision Letter for the Application Number indicated above. This letter explains the basis of USAC's decision. The date of this letter begins the 60 day time period for appealing this decision to the Federal Communications Commission (FCC). If your Letter of Appeal included more than one Application Number, please note that you will receive a separate letter for each application.

Funding Request Number(s): 1507255
Decision on Appeal: **Approved, Funding Reduced**
Explanation:

- Your appeal has brought forward persuasive information that the funding request cited above should be approved for funding. However, funding will be reduced for the following reasons. During the Appeal Review, USAC thoroughly assessed the facts presented in the appeal letter, the relevant documentation on file, and the FCC Rules and Procedures before making its determination. It was determined that the Nextel number: 845.494.1723 which is responsible for \$1,183.60/month, will be removed from the funding request amount (\$4,605.90/month) as per your request in the appeal letter. In addition, it was determined that the following ineligible services were included in the request: Cellular Service Plan and Cellular Direct Protect Insurance. A total of \$211.49/month was removed from

\$3,422.30/month per your request. The remainder of the FRN (\$3,210.81/month) is approved as eligible cellular service.

- FCC rules provide that funding may be approved only for eligible products and services. See 47 C.F.R. secs. 54.502, 54.503. The USAC website contains a list of eligible products and services. See the website, www.usac.org/sl, Eligible Services List. FCC rules further require that if 30% or more of the applicant's funding request includes ineligible products and/or services, then the funding request must be denied, otherwise the funding request will be reduced accordingly. See 47 C.F.R. sec. 54.504(d).

Funding Request Number(s): 1507256

Decision on Appeal: **Denied**

Explanation:

- During the Appeal Review USAC thoroughly assessed the facts presented in the appeal letter, the relevant documentation on file, and the FCC Rules and Procedures before making its determination. The record shows that the submitted billing information shows that there is \$331.33 in usage charges for cell number (914) 523-7352. The submitted partial usage detail covers \$35.60 of this amount and pages 147-178 of the call detail usage for the number in question was never submitted. On appeal, you have stated that all existing billing for this FRN has been provided and that the vendor cannot produce anything further.
- USAC denied your funding request because it was determined that the costs of the products and services in your funding request were significantly higher than the costs generally available in your marketplace for the same or similar products or services. There is no evidence that the reason for excessive costs were due to extenuating circumstances. You have not demonstrated on appeal that USAC's determination was incorrect. Consequently, USAC denies your appeal.
- FCC rules state that, in selecting a service provider, the applicant must carefully consider all bids submitted and must select the most cost-effective service or equipment offering, with price being the primary factor, which will result in being the most cost-effective means of meeting educational needs and the technology plan goals. See 47 C.F.R. secs. 54.511(a), 54.504(b)(2)(vii), 54.504(c)(1)(xi). See also Request for Review of the Decision of the Universal Service Administrator by Ysleta Independent School District, et al., CC Docket Nos. 96-45 and 97-21, Order, 18 FCC Rcd 26407, FCC 03-313, paras. 47-55 (Dec. 8, 2003) (Ysleta Order). Service providers shall not charge the entities a price above the lowest corresponding price. See 47 C.F.R. sec. 54.511 (b). In order to ensure that the applicants are not requesting discounts for services beyond their reasonable needs, USAC denies funding request(s) for not being cost-effective the costs of the products and services in a funding request are significantly higher than the costs generally available in the applicant's marketplace for the same or similar products or services. For example, equipment at prices two or three times greater than the prices available from commercial vendors would not be cost effective, unless there were extenuating circumstances. See Ysleta Order para. 54.

Since the Administrator's Decision on Appeal approves additional funding for your application, USAC will issue a Revised Funding Commitment Decision Letter (RFCDL) to you and to each service provider that will provide the services approved for discounts in this letter. USAC will issue the RFCDL to you as soon as possible. If your appeal included Internal Connections at a discount level that has not yet been approved for funding, an RFCDL will be issued for those funding requests once USAC determines if there will be sufficient funds to make commitments at your discount level. The RFCDL will inform you of the precise dollar value of your approved funding request(s). As you await the RFCDL, you may share this Administrator's Decision on Appeal with the relevant service provider(s).

If the original FCDL approved funding in part for the services covered by this appeal, the 120 day deadline for filing Forms 486 is determined based on the date of the original FCDL that approved funding for the request(s). However, if the original FCDL denied funding for the services covered by this appeal, Forms 486 cannot be filed until you have received your RFCDL.

If your appeal has been approved, but funding has been reduced or denied, you may appeal these decisions to either USAC or the FCC. For appeals that have been denied in full, partially approved, dismissed, or canceled, you may file an appeal with the FCC. You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received or postmarked within 60 days of the date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD section of the USAC website or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

We thank you for your continued support, patience and cooperation during the appeal process.

Schools and Libraries Division
Universal Service Administrative Company

cc: Israel Neiman

Main Identity

From: "Clark, Linda A." <LCLARK@sl.universalservice.org>
To: "Robert Sniecinski" <erate@earthlink.net>
Sent: Tuesday, January 22, 2008 9:59 AM
Subject: RE: App 545708 - Erate

No

Thank you,

Linda Clark
School and Libraries
Program Integrity Assurance
Phone: 973-581-5080
Fax: 973-599-6521
lclark@sl.universalservice.org

From: Robert Sniecinski [mailto:erate@earthlink.net]
Sent: Tuesday, January 22, 2008 8:59 AM
To: Clark, Linda A.
Subject: Re: App 545708 - Erate

Can we remove the phone number in question?

Robert Sniecinski
RiverStone Partners, LLC
Phone: 908.735.6986
Fax: 908.735.2839

----- Original Message -----

From: Clark, Linda A.
To: Robert Sniecinski
Sent: Tuesday, January 22, 2008 7:24 AM
Subject: RE: App 545708 - Erate

That FRN will be denied. You will have to appeal.

Thank you,

Linda Clark
School and Libraries
Program Integrity Assurance
Phone: 973-581-5080
Fax: 973-599-6521
lclark@sl.universalservice.org

From: Robert Sniecinski [mailto:erate@earthlink.net]
Sent: Monday, January 21, 2008 10:20 PM
To: Clark, Linda A.; Israel Neiman
Subject: Re: App 545708 - Erate

Linda,

What happened to FRN 1507255 for \$55,270.80? It is on this application as well....

Bob

Robert Sniecinski
RiverStone Partners, LLC
Phone: 908.735.6986
Fax: 908.735.2839
Robert Sniecinski
RiverStone Partners, LLC
Phone: 908.735.6986
Fax: 908.735.2839

----- Original Message -----

From: Clark, Linda A.
To: Mr. Israel Neiman 18453567359 ; Israel Neiman
Cc: Robert Sniecinski
Sent: Monday, January 21, 2008 1:47 PM
Subject: App 545708 - Erate

Mr. Israel Neiman,

Please see attached letter. This is the only thing holding up your application. The sooner I receive your response, the sooner it will be processed.

Thank you,

Linda Clark
School and Libraries
Program Integrity Assurance
Phone: 973-581-5080
Fax: 973-599-6521
lclark@sl.universalservice.org

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3/31/2008

Main Identity

From: "Israel Neiman" <bestmohel@yahoo.com>
To: "Robert Sniecinski" <erate@earthlink.net>
Sent: Saturday, March 29, 2008 11:13 PM
Subject: Re: Appeal Draft

Bob,
It looks good I think its good to go
Israel

Robert Sniecinski <erate@earthlink.net> wrote:

Israel,

Final draft attached.

Bob

Robert Sniecinski
RiverStone Partners, LLC
Phone: 908.735.6986
Fax: 908.735.2839

----- Original Message -----

From: Robert Sniecinski
To: Israel Neiman
Sent: Friday, March 28, 2008 12:49 PM
Subject: Appeal Draft

Israel,

Attached is a draft of the appeal for FRN 1507255. I am not sure how you want to handle the Verizon
FRN

Bob

Robert Sniecinski
RiverStone Partners, LLC
Phone: 908.735.6986
Fax: 908.735.2839

No Cost - Get a month of Blockbuster Total Access now. Sweet deal for Yahoo! users and friends.

3/30/2008



Universal Service Administrative Company

Schools and Libraries Division

January 11, 2008

Mr. Israel Neiman
Yeshivath Viznitz D'Khal Torah Chaim
(845) 356-1010
Application Number 545708

Response Due Date: January 26, 2008

Linda, please see the response below. The school disagrees with the denial.

The Program Integrity Assurance (PIA) team is in the process of reviewing all Funding Year 2007 Form 471 Applications for schools and libraries discounts to ensure that they are in compliance with the rules of the Universal Service program. We are currently in the process of reviewing your Funding Year 2007 Form 471 Application. To complete our review, we need some additional information. The information needed to complete the review is listed below.

Based on the documentation that you have provided, the entire **FRN-1507255**, Cellular service provided by NEXTEL will be denied. This funding request is denied as a result of a Cost Effectiveness Review, which has determined that your request has not been justified as cost effective as required by FCC rules. For additional guidance on determining eligible services, please refer to the USAC website at: <http://www.usac.org/sl/applicants/step06/>.

FRN 1507255 is a request for Cellular Service for \$55,270.80/year (\$4,605.90/month):

- The individual Nextel # (845) 494-1723 has a total cellular usage charge of \$1,183.60, which is 93% of the total cost of the cellular service (\$1,275.79) for this cellular number. Additionally, July 2005 cellular usage charges (\$1,183.60) for number 845-494-1723 are more than 5 times greater than the June 2005 cellular usage charges (\$215.20). The cellular usage charges/cost for this number is extremely high and deemed excessive.
- The calling plan for (845) 494-1723 is not cost effective considering the overage charges for this cellular line. There are plans that are available for a high volume user which are cost effective.

If you agree with the above denial, **Please confirm if you agree with the denial** ☐ Yes ☒ **XX** No. If you disagree, please provide documentation to support the Cost Effectiveness of this request.

Response: We disagree with the denial for the following reasons:

1 – We agree that this is an amount that is high when compared to other cell bills, However, the school simply took the highest annual bill and included it on the application. We offered to reduce the request but the application was already in the “policy guidance” bucket.

2 – In other instances when a funding request is contains a questionable item the applicant is offered the option of creating a separate FRN for just the questionable amount or given the alternative to reduce the FRN to a specified amount. This option was not offered in this instance.

3 – The denial of the entire FRN seems punitive and not in the spirit of the program.

4 – The amount requested does not violate the 30% rule.

Please fax or email the requested information to my attention. If you have any questions, please feel free to contact me.

It is important that we receive all of the information requested **within 15 calendar days** so we can complete our review. **Failure to do so may result in a reduction or denial of funding. If you need additional time to prepare your response, please let me know as soon as possible.**

Should you wish to cancel your Form 471 application(s), or any of your individual funding requests, please clearly indicate in your response that it is your intention to cancel an application or funding request(s). Include in any cancellation request the Form 471 application number(s) and/or funding request number(s), and the complete name, title and signature of the authorized individual.

Thank you for your cooperation and continued support of the Universal Service Program.

Linda Clark
Program Integrity Assurance
USAC, Schools and Libraries Division
Phone: 973-581-5080
Fax: 973-599-6521
E-mail: lclark@sl.universalservice.org